

CITY COUNCIL REPORT

Public

DATE: January 7, 2015

TO: Mayor and Councilmembers

FROM: Kevin Treadway, Police Chief

CC: Kevin Burke, Josh Copley, Jerene Watson, Leadership Team

SUBJECT: FLAGSTAFF POLICE DEPARTMENT TASER POLICY

This is in response to Councilmember Evans request for a copy of the Flagstaff Police Department's Taser policy.

DISCUSSION:

The Flagstaff Police Departments policy governing the use of the Conducted Energy Device (Taser) is found under Policy 309 in our policy manual. Our policies are written and reviewed by Lexipol LLC, a company based in California that provides legal review, best practice recommendations, policy updates and daily training to law enforcement agencies like ours throughout the country. The following is policy 309 in its entirety. We have additional policies that define use of force in general, and the requirements for officers to file use of force forms which are reviewed through the chain of command. FPD policies are also available to the public via our website.

Flagstaff Police Department

Policy Manual

Conducted Energy Device (Taser) - 58

Adoption Date: 2014/09/18

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Conducted Energy Device (Taser)

309.1 PURPOSE AND SCOPE

This policy provides guidelines for the issuance and use of TASER devices.

309.2 POLICY

The TASER device is intended to control a violent or potentially violent individual, while minimizing the risk of serious injury. The appropriate use of such a device should result in fewer serious injuries to officer and suspects.

309.3 ISSUANCE AND CARRYING OF TASER DEVICES

Only members who have successfully completed department-approved training may be issued and carry a TASER device.

TASER devices are issued for use during a member's current assignment. Those leaving a particular assignment may be required to return the device to the department's inventory. Officers shall only use the TASER device and cartridges that have been issued by the Department. Uniformed officers who have been issued the TASER device shall wear the device in an approved holster on their person. Non-uniformed officers may secure the TASER device in the driver's compartment of their vehicle.

Members carrying a TASER device should perform a spark test on the unit prior to every shift. When carried while in uniform, officers shall carry the TASER device in a weak-side holster on the side opposite the duty weapon.

(a) All TASER devices shall be clearly and distinctly marked to differentiate them from the duty weapon and any other device.

(b) Whenever practicable, officers should carry two or more cartridges on their person when carrying the TASER device.

(c) Officers shall be responsible for ensuring that their issued TASER device is properly maintained and in good working order.

(d) Officers should not hold both a firearm and the TASER device at the same time.

309.4 VERBAL AND VISUAL WARNINGS

A verbal warning of the intended use of the TASER device should precede its application, unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances. The purpose of the warning is to:

(a) Provide the individual with a reasonable opportunity to voluntarily comply.

(b) Provide other officers and individuals with a warning that the TASER device may be deployed. If, after a verbal warning, an individual is unwilling to voluntarily comply with an officer's lawful orders and it appears both reasonable and feasible under the circumstances, the officer may, but is not required to, display the electrical arc (provided that a cartridge has not been loaded into the

device), or the laser in a further attempt to gain compliance prior to the application of the TASER device. The aiming laser should never be intentionally directed into the eyes of another as it may permanently impair his/her vision. The fact that a verbal or other warning was given or the reasons it was not given shall be documented by the officer deploying the TASER device in the related report.

309.5 USE OF THE TASER DEVICE

The TASER device has limitations and restrictions requiring consideration before its use. The TASER device should only be used when its operator can safely approach the subject within the operational range of the device. Although the TASER device is generally effective in controlling most individuals, officers should be aware that the device may not achieve the intended results and be prepared with other options.

309.5.1 APPLICATION OF THE TASER DEVICE

The TASER device may be used in any of the following circumstances, when the circumstances perceived by the officer at the time indicate that such application is reasonably necessary to control a person:

- (a) The subject is violent or is physically resisting.
- (b) The subject has demonstrated, by words or action, an intention to be violent or to physically resist, and reasonably appears to present the potential to harm officers, him/herself or others. Mere flight from a pursuing officer, without other known circumstances or factors, is not good cause for the use of the TASER device to apprehend an individual.

309.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS

The use of the TASER device on certain individuals should generally be avoided unless the totality of the circumstances indicates that other available options reasonably appear ineffective or would present a greater danger to the officer, the subject or others, and the officer reasonably believes that the need to control the individual outweighs the risk of using the device. This includes:

- (a) Individuals who are known to be pregnant.
- (b) Elderly individuals or obvious juveniles.
- (c) Individuals with obviously low body mass.
- (d) Individuals who are handcuffed or otherwise restrained.
- (e) Individuals who have been recently sprayed with a flammable chemical agent or who are otherwise in close proximity to any known combustible vapor or flammable material, including alcohol-based oleoresin capsicum (OC) spray.
- (f) Individuals whose position or activity may result in collateral injury (e.g., falls from height, operating vehicles). Because the application of the TASER device in the drive-stun mode (i.e., direct contact without probes) relies primarily on pain compliance, the use of the drive-stun mode generally should be limited to supplementing the probe-mode to complete the circuit, or as a distraction technique to gain separation between officers and the subject, thereby giving officers time and distance to consider other force options or actions.

The TASER device shall not be used to psychologically torment, elicit statements or to punish any individual.

309.5.3 TARGETING CONSIDERATIONS

Reasonable efforts should be made to target lower center mass and avoid the head, neck, chest and groin. If the dynamics of a situation or officer safety do not permit the officer to limit the application of the TASER device probes to a precise target area, officers should monitor the condition of the subject if one or more probes strikes the head, neck, chest or groin until the subject is examined by paramedics or other medical personnel.

309.5.4 MULTIPLE APPLICATIONS OF THE TASER DEVICE

Officers should apply the TASER device for only one standard cycle and then evaluate the situation before applying any subsequent cycles. Multiple applications of the TASER device against a single individual are generally not recommended and should be avoided unless the officer reasonably believes that the need to control the individual outweighs the potentially increased risk posed by multiple applications. If the first application of the TASER device appears to be ineffective in gaining control of an individual, the officer should consider certain factors before additional applications of the TASER device, including:

- (a) Whether the probes are making proper contact.
- (b) Whether the individual has the ability and has been given a reasonable opportunity to comply.
- (c) Whether verbal commands, other options or tactics may be more effective.

Officers should generally not intentionally apply more than one TASER device at a time against a single subject.

309.5.5 ACTIONS FOLLOWING DEPLOYMENT

Officers shall notify a supervisor of all TASER device discharges. Confetti tags should be collected and the expended cartridge, along with both probes and wire, should be submitted into evidence. The cartridge serial number should be noted and documented on the evidence paperwork. The evidence packaging should be marked "Biohazard" if the probes penetrated the subject's skin.

309.5.6 DANGEROUS ANIMALS

The TASER device may be deployed against an animal as part of a plan to deal with a potentially dangerous animal, such as a dog, if the animal reasonably appears to pose an imminent threat to human safety and alternative methods are not reasonably available or would likely be ineffective.

309.5.7 OFF-DUTY CONSIDERATIONS

Officers are not authorized to carry Department TASER devices while off-duty. Officers shall ensure that TASER devices are secured while in their homes, vehicles or any other area under their control, in a manner that will keep the device inaccessible to others.

309.6 DOCUMENTATION

Officers shall document all TASER device discharges in the related arrest/crime report and the use of force report form. Notification shall also be made to a supervisor in compliance with the Use of Force Policy. Unintentional discharges,

pointing the device at a person, laser activation and arcing the device will also be documented on the report form.

309.6.1 REPORTS

The officer should include the following in the arrest/crime report:

- (a) Identification of all personnel firing TASER devices
- (b) Identification of all witnesses
- (c) Medical care provided to the subject
- (d) Observations of the subject's physical and physiological actions
- (e) Any known or suspected drug use, intoxication or other medical problems

309.7 MEDICAL TREATMENT

Consistent with local medical personnel protocols and absent extenuating circumstances, only appropriate medical personnel should remove TASER device probes from a person's body. Used

TASER device probes shall be treated as a sharps biohazard, similar to a used hypodermic needle, and handled appropriately. Universal precautions should be taken. All persons who have been struck by TASER device probes or who have been subjected to the electric discharge of the device shall be medically assessed prior to booking. Additionally, any such individual who falls under any of the following categories should, as soon as practicable, be examined by paramedics or other qualified medical personnel:

- (a) The person is suspected of being under the influence of controlled substances and/or alcohol.
- (b) The person may be pregnant.
- (c) The person reasonably appears to be in need of medical attention.
- (d) The TASER device probes are lodged in a sensitive area (e.g., groin, female breast, head, face, neck).
- (e) The person requests medical treatment.

Any individual exhibiting signs of distress or who is exposed to multiple or prolonged applications (i.e., more than 15 seconds) shall be transported to a medical facility for examination or medically evaluated prior to booking. If any individual refuses medical attention, such a refusal should be witnessed by another officer and/or medical personnel and shall be fully documented in related reports. If an audio recording is made of the contact or an interview with the individual, any refusal should be included, if possible. The transporting officer shall inform any person providing medical care or receiving custody that the individual has been subjected to the application of the TASER device.

309.8 SUPERVISOR RESPONSIBILITIES

When possible, supervisors should respond to calls when they reasonably believe there is a likelihood the TASER device may be used. A supervisor should respond to all incidents where a TASER device was activated.

A supervisor should review each incident where a person has been exposed to an activation of the TASER device. The device's onboard memory should be downloaded through the data port by the Taser program supervisor. Photographs of probe sites should be taken and witnesses interviewed.

309.9 TRAINING

Personnel who are authorized to carry the TASER device shall be permitted to do so only after successfully completing the initial department-approved training. Any personnel who have not carried the TASER device as a part of their assignment for a period of six months or more shall be recertified by a department-approved TASER device instructor prior to again carrying or using the device. Proficiency training for personnel who have been issued TASER devices should occur every year. A reassessment of an officer's knowledge and/or practical skill may be required at any time if deemed appropriate by the Training Officer. All training and proficiency for TASER devices will be documented in the officer's training file. Command staff, supervisors and investigators should receive TASER device training as appropriate for the investigations they conduct and review. Officers who do not carry TASER devices should receive training that is sufficient to familiarize them with the device and with working with officers who use the device. The Training Officer is responsible for ensuring that all members who carry TASER devices have received initial and annual proficiency training. Periodic audits should be used for verification. Application of TASER devices during training could result in injury to personnel and should not be mandatory for certification.

The Training Officer should ensure that all training includes:

- (a) A review of this policy.
- (b) A review of the Use of Force Policy.
- (c) Performing weak-hand draws or cross-draws to reduce the possibility of accidentally drawing and firing a firearm.
- (d) Target area considerations, to include techniques or options to reduce the accidental application of probes near the head, neck, chest and groin.
- (e) Handcuffing a subject during the application of the TASER device and transitioning to other force options.
- (f) De-escalation techniques.
- (g) Restraint techniques that do not impair respiration following the application of the TASER device.

RECOMMENDATION / CONCLUSION

This report is for information only.